

REMARKS

According to the Examiner, the amendment filed on August 18, 2008 is not fully responsive because the amended/new claims are patentable distinct from the originally filed claims. According to the Examiner, the original claims were directed to a method/program to validate the calibration factor for a Coriolis flowmeter and the new claims are no longer limited to calibrating a flowmeter and are somehow directed to validating the calibration factor for a material flow. Accordingly, it is Applicant's understanding that the Examiner's principal concern is directed at removal of the term Coriolis flowmeter from the preamble. For at least the reasons that follow, Applicants respectfully disagree and respectfully request that the Examiner examine the claims transmitted herewith.

Applicant respectfully points out that "a preamble generally is not limiting when the claim body describes a structurally complete invention such that deletion of the preamble phrase does not affect the structure or steps of the claimed invention".

M.P.E.P. § 2111.03 II. "Preamble language merely extolling benefits or features of the claimed invention does not limit the claim scope without clear reliance on those benefits or features as patentably significant." M.P.E.P. § 2111.03 II. Accordingly, "during examination, statements in the preamble reciting the purpose or intended use of the claimed invention must be evaluated to determine whether the recited purpose or intended use results in a structural difference (or, in the case of process claims, manipulative difference) between the claimed invention and the prior art[;] if so, the recitation serves to limit the claim." M.P.E.P. § 2111.03 II.

In the present situation, although the preamble as filed indicated the method was used in conjunction with a Coriolis flowmeter, this language merely extolled benefits of the claim or features in the claim. There has been absolutely no clear reliance on the Coriolis flowmeter feature as being patentably significant or as consisting of a structural difference between the claimed invention and the prior art. To the contrary, the fact that such feature was removed from the claim demonstrates that such feature is not deemed patentably significant, in the context of claim 1. Applicant submits the body of the claim, rather than the preamble, includes the basis for distinguishing the claimed inventions from the prior art.

In view of the foregoing, Applicant respectfully requests reconsideration and examination of the enclosed claims. Applicant further submits that the enclosed claims are allowable for the same reasons as pointed out in the response dated May 2, 2008. Applicant points out that no fees are required for the enclosed claims, since payment was rendered along with the response dated May 2, 2008.

III. Conclusion

Applicants submit that the subject matter of the present application is novel, nonobvious, and useful. Accordingly, Applicants respectfully request that the rejections and objections be withdrawn and that the present application issue as early as possible.

Dated: March 4, 2009

/Curtis J Ollila/
SIGNATURE OF PRACTITIONER
Curtis Ollila, Reg. No. 47,833
Ollila Law Group, L.L.C.
Telephone: (303) 938-9999 ext. 12
Facsimile: (303) 938-9995